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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/648,290	08/24/2000	Hiroyuki Maeda	OPS Case 500	5582

7590 01/13/2006

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EXAMINER

BROADHEAD, BRIAN J

ART UNIT PAPER NUMBER

3661

DATE MAILED: 01/13/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/648,290

Applicant(s)

MAEDA, HIROYUKI

Examiner

Brian J. Broadhead

Art Unit

3661

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 22 September 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 3-5 and 8-30 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 3-5 and 8-30 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 23 April 2001 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Claim Rejections - 35 USC § 103

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims 3, 4, 11, 12, 13, 14, 15, 16, 17, 18, 19, 20, 21, 22, 23, 24, 25, 26, 27, 28, 29, and 30 are rejected under 35 U.S.C. 103(a) as being unpatentable over Shuman et al., 6675081, in view of Tognazzini, 5771484.

3. Shuman et al. disclose a receiver provided on said vehicle which receives said transmitter signal and outputs a control signal based on reception of the transmitter signal outputted by the transmitter(262); said automatic braking device receiving said control signal and operating an antilock control device of said vehicle independent of additional transmitter signals being received from said transmitter, said automatic braking device being operated based on receipt of the control signal in order to operate an automatic brake wherein a braking fluid is obtained by driving a pump of said automatic braking device to supply said braking fluid to wheel brakes provided in at least a pair of right and left wheels to produce a braking force, so that said antilock control device is operable during the operation of the automatic braking device on lines 14-19, on column 7, line 63, on column 11, through line 2, on column 12, and lines 38-43, on column 22; reference value setting means provided in the vehicle by which said reference value corresponding to said target traveling speed is set, and wherein the

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automatic braking device is operated according to the reference value set by the reference value setting means based on the control signal on lines 28-32, on column 13, and lines 39-56, on column 22; traveling speed detection means provided in the vehicle for detecting said actual traveling speed of the vehicle based on the control signal and outputting an output signal so as to operate the automatic braking device until the output signal reaches a value corresponding to the target traveling speed of the vehicle without additional transmitter signals on lines 38-43, on column 22; an alarm unit being provided which generates an alarm to the inside of the vehicle based on the control signal outputted by the receiver based upon receipt of said transmitter signal transmitted from said transmitter on lines 29-36, on column 7; and manual brake actuator on line 50, on column 16.

Shuman et al. do not disclose at least one detection means provided adjacent to the road for detecting a danger state and outputting a detection signal based on detection of said danger state; a transmitter provided adjacent to the road which receives said detection signal and transmits a transmitter signal formed of an electromagnetic wave based on the detection signal; and the transmitter is placed near a tunnel opening.

Tognazzini teaches at least one detection means provided adjacent to the road for detecting a danger state and outputting a detection signal based on detection of said danger state on lines 52-60, on column 2; and a transmitter provided adjacent to the road which receives said detection signal and transmits a transmitter signal formed of an electromagnetic wave based on the detection signal on lines 15-16, on column 5. It

would have been obvious to one of ordinary skill in the art at the time the invention was made to use the sensor system of Tognazzini in the invention of Shuman et al. because such modification would provide the content services as disclosed on lines 50-53, on column 18 that Shuman calls for.

Shuman et al. and Tognazzini do not disclose the transmitter is placed near a tunnel opening. It would have been obvious to one of ordinary skill in the art at the time the invention was made to place the transmitter near a tunnel opening because it is a design choice.

1. Claims 5, 8, 9, and 10 are rejected under 35 U.S.C. 103(a) as being unpatentable over Shuman et al., 6675081, in view of Tognazzini, 5771484 as applied to claims 11 and 12 above, and further in view of Cooper, 5786750.

2. Shuman et al. and Tognazzini disclose the limitations as set forth above. They do not disclose that the temperature sensor detects when the atmospheric temperature reaches a given temperature indicating a danger state that the detection means outputs a signal or that the temperature detection is in a vehicle tunnel. Cooper teaches of detectors that detect when the atmospheric temperature reaches a given temperature indicating a danger state that the detection means outputs a signal or that the temperature detection is in a vehicle tunnel on lines 55-66, on column 1, lines 45-55, on column 2, and lines 4-8, on column 7. It would have been obvious to one of ordinary skill in the art at the time the invention was made to include in the detectors of Shuman et al. and Tognazzini the fire detection of Cooper because the goal of Tognazzini is to protect the vehicle from road hazards and fire would be a serious road hazard.

Response to Arguments

3. Applicant's arguments filed 9-22-05 have been fully considered but they are not persuasive.

4. In response to applicant's argument that there is no suggestion to combine the references, the examiner recognizes that obviousness can only be established by combining or modifying the teachings of the prior art to produce the claimed invention where there is some teaching, suggestion, or motivation to do so found either in the references themselves or in the knowledge generally available to one of ordinary skill in the art. See *In re Fine*, 837 F.2d 1071, 5 USPQ2d 1596 (Fed. Cir. 1988) and *In re Jones*, 958 F.2d 347, 21 USPQ2d 1941 (Fed. Cir. 1992). In this case, Shuman et al. discloses taking into account data road data provided by content providers in controlling the vehicle. Tognazzini provides a system that would act as a content provider. The applicant is arguing that since Shuman et al. is more complex than what is claimed, it somehow doesn't disclose the claimed invention. This logic is not convincing because in a case where no inputs change in the invention of Shuman et al. except for some input from a content provider, such as Tognazzini, then it would operate exactly as the claimed invention. Just because Shuman et al. discloses more inputs, it doesn't mean the invention does not read on the current invention.

5. As per the arguments with respect to claims 11, 12, 13, 16, 19, 25, 26, if the inputs to Shuman et al. do not change then the set target speed will not change. If the only change in environment received is an input from a content provider, such as

Tognazzini, then the target speed remains set based on the input from the content provider.

6. As per the arguments with respect to claims 22, and 27-30, while the invention claims that the comparison is ended when the actual speed is less than the target speed but each time the invention receives the transmission from the transmitter it will run the comparison at least once. If Shuman et al. is not receiving any inputs that require the speed to be controlled it also wouldn't need to run any type of comparison.

Conclusion

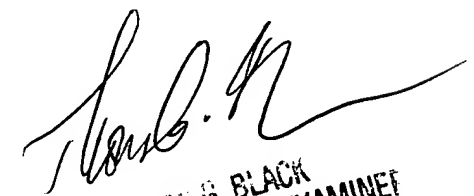
Any inquiry concerning this communication or earlier communications from the examiner should be directed to Brian J. Broadhead whose telephone number is 571-272-6957. The examiner can normally be reached on Monday through Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Thomas Black can be reached on 571-272-6956. The fax phone numbers for the organization where this application or proceeding is assigned are (703) 872-9306 for regular communications and (703) 872-9306 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-1113.



BJB
January 9, 2006



THOMAS G. BLACK
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